IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Kyra Tranae Kelly,	)	Case No. 2:22-cv-706-RMG
	)	
Plaintiff,	)	
	)	**ORDER**
v.	)	
	)	
Caleb Austin,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court on the Report and Recommendation ("R&R") of the Magistrate Judge recommending that Defendant's motion for summary judgment (Dkt. No. 20) be granted. (Dkt. No. 24). No party has filed objections to the R & R.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where the plaintiff fails to file any specific objections, "a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted).

Plaintiff, acting *pro se*, filed this action in state court, which was subsequently removed by Defendant to federal court. This action arises out of a traffic stop initiated by Defendant, a law enforcement officer, of Plaintiff for speeding. Upon approaching the vehicle, Defendant detected

the odor of marijuana and directed Plaintiff to exit the vehicle. Plaintiff refused to follow the

command of the officer and requested his supervisor come to the scene. Eventually both the

supervisor and a female officer came to the scene and attempted to persuade Plaintiff to step out

of her vehicle. She was warned that her failure to follow their orders to step out of the vehicle

would result in her car window being broken and she being involuntarily removed from her

automobile. When Plaintiff persisted in refusing to exit the vehicle, the officers used a device to

break the driver's side window. Plaintiff only then exited the vehicle and was arrested.

Plaintiff alleged a variety of legal claims, including unlawful seizure in violation of her

Fourth Amendment rights, "deprivation of rights under color of law," "violation of due process,"

"violation of my right to travel," "safe conduct violation," and "unfair debt collection practices."

(Dkt. No. 1-1). The Magistrate Judge thoroughly set forth the factual circumstances leading to

Plaintiff's initial stop, refusal to exit her vehicle, breakage of her car window, and arrest, all which

were viewed on the officer's dash cam video. (Dkt. No. 24 at 1-5). The Magistrate Judge also

addressed Plaintiff's various legal claims and explained in detail why each of the claims could not

survive Defendant's motion for summary judgment. (*Id*. at 6-15).

Plaintiff was advised that she had the right to file written objections to the R & R within

14 days of the service of the R & R and the failure to timely file objections would result in limited

review by the district court and a waiver of her right to appeal the district court's order based upon

the R & R. (*Id*. at 17). Plaintiff filed no objection to the R & R.

The Court has reviewed the R & R in this matter, Plaintiff's complaint, the underlying

record, and the relevant case law. The Court finds that the Magistrate Judge ably addressed the

factual and legal issues in this matter and correctly concluded that Defendant's motion for

summary judgment should be granted. The Court adopts the R & R of the Magistrate Judge (Dkt.

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No. 24) as the Order of the Court and grants Defendant's motion for summary judgment (Dkt. No.

20).

   AND IT IS SO ORDERED.

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s/ Richard Mark Gergel
United States District Judge

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May 31, 2023
Charleston, South Carolina